In the High Court of Punjab & Haryana at Chandigarh.

Crl. Revision No. 2007 of 2007

Date of decision: November 13, 2007

Kashmir Singh

.. Petitioner

versus

State of Punjab

.. Respondent

Coram: Hon'ble Mr. Justice A.N. Jindal.

Present: Mr. Vikas Bahal, Advocate for the petitioner.
Mr. Satish Bhanot, Sr. DAG, Punjab for the respondent.

A.N. Jindal, J (Oral)

This petition is directed against the judgment dated 24.9.2007 passed by the learned Sessions Judge, Faridkot dismissing the appeal of the petitioner against the judgment dated 9.8.2007 passed by Chief Judicial Magistrate, Faridkot, convicting the petitioner and sentencing him to undergo rigorous imprisonment for six months under Section 279 IPC and rigorous imprisonment for two years and fine of Rs.2000/- under Section 304-A IPC.

In nutshell, the facts as unfolded by the prosecution during trial are that on 27.11.2001, Mohinder Kumar (PW3) along with his friend Sunil son of Kewal were proceeding from Faridkot to Kotkapura on scooter bearing registration No.PB-03-A-5983. At about 12.15 PM, when they reached near the Dhillon Filling Station, then the petitioner while driving bus No.PB-02-Y-9970 rashly and negligently came from the opposite side and struck against the scooter. Resultantly, both fell down and Sunil, a pillion rider, suffered multiple injuries. He was shifted to G.G.S. Medical College & Hospital, Faridkot, from where he was referred to D.M.C. Hospital, Ludhiana. Sunil Kumar injured succumbed to the injuries on 1.12.2001. On the statement of Mohinder Kumar, driver of the scooter, FIR No.165 dated 27.11.2001 under Sections 279/337/304-A IPC was registered at Police Station City, Faridkot, which was investigated and completion of the investigation was followed by a report under Section 173 Cr.P.C.

Charges under Sections 279/337/304-A IPC were framed against the petitioner, to which he opted to contest.

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In order to substantiate the charge, the prosecution examined PW-1 Chintu Chawla Clerk, GGS Medical College & Hospital, Faridkot and proved the copy of the bed head ticket.

PW2 HC Rajinder Kumar Mechanic tested the scooter as well as the offending bus involved in the accident and proved the report Ex.P1 and Ex.P2.

PW-3 Dr. S.K. Sharma, conducted the autopsy on the dead body of Sunil and proved the report Ex.P3.

PW-4 Mohinder Kumar is the complainant, (PW-5) ASI Gurmail Singh is the Investigating Officer of the case and PW-6 is H.C. Baljit Singh.

When examined under Section 313 Cr.P.C. the petitioner denied all the incriminating circumstances appearing against him and pleaded his false implication in the case.

The trial ended in conviction. The appeal was also dismissed. Hence this revision petition.

Arguments heard.

The story as set up by the prosecution is that on 27.11.2001, the petitioner while driving the bus No.PB-02-Y-9970, hit the scooter No.PB-03-A-5983. The scooter was driven by the complainant Mohinder Kumar (PW4). The testimony of Mohinder Kumar (PW4) finds support from the medical evidence. Since both the petitioner as well as the conductor spent sufficient time with the witness and they accompanied him to the GGS Medical College and Hospital, Faridkot with the injured, then the question of doubtful identity does not arise. Mere fact that the accused was arrested after an year or so does not in any way create a dent in the prosecution case.

Having scanned the judgments of both the courts below, it is observed that the evidence of the witnesses has been appreciated in the right perspective and apparently no illegality has been found in the conduct of the case. Consequently, the impugned judgment regarding conviction is maintained.

Now coming to the question of sentence, the petitioner himself accompanied the deceased and did not try to run away, therefore, under these circumstances, he deserves some leniency on account of quantum of

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sentence. He is ready to compensate the kins of the petitioner also.

As an upshot of the above discussion, this revision petition is dismissed with the modification in the sentence that the petitioner be released on probation on his furnishing personal bond in the sum of Rs.10,000/- with one surety of the like amount, for keeping peace and be of good behaviour for a period of one year and in case of breach of conditions of the bond, he shall be ready to serve sentence as and when called for. Sentence of fine is converted into costs of litigation. He is further directed to pay a sum of Rs.40,000/- as compensation to the kins of the deceased in addition to any other compensation received by them within one month from today. It is further made clear that the order of probation will not amount to his disability over his service career.

It is also made clear that failing to furnish the probation bond and also payment of compensation, the impugned judgment will remain intact.

Copy of the judgment be sent to Chief Judicial Magistrate, Faridkot for compliance.

November 13, 2007 (A.N. Jindal)
deepak Judge

To be referred to Reporter: Yes/No.